

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1399

Introduced by Senator Simitian

February 21, 2008

An act to amend ~~25405.6~~ Sections 25981, 25982, 25984, and 25985 of the Public Resources Code, relating to public resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 1399, as amended, Simitian. ~~Solar energy systems. Public resources: solar shading.~~

Existing law prohibits a person owning or in control of a property from allowing a tree or shrub to be placed or to grow on the property subsequent to the installation of a solar collector on a property of another if the tree or shrub casts a shadow of a specified size on the collector absorption area during specified times. Existing law exempts trees and shrubs under specified conditions. Existing law authorizes a city, county, or city and county to adopt an ordinance exempting its jurisdiction from the above prohibition.

This bill would require the owner of property where the solar collector is to be installed to provide a written notice containing specified information to owners of affected property. The bill would, further, exempt trees and shrubs planted prior to the time of the installation of a solar collector and trees and shrubs that are subject to a local ordinance. The bill would redefine "solar collector" to be a device on the roof of a building that is primarily used to transform solar energy into thermal, chemical, or electrical energy. The bill would provide that a local ordinance specifying the requirements for tree preservation or solar shade control would govern within the jurisdiction that adopted

the ordinance. The bill would also make technical nonsubstantive changes.

~~Existing law requires, not later than July 1, 2007, the State Energy Resources Conservation and Development Commission to initiate a public proceeding to study and make findings whether, and under what conditions, solar energy systems should be required on new residential and nonresidential buildings and to periodically update the study thereafter.~~

~~This bill would make a technical, nonsubstantive change to these provisions:~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 25981 of the Public Resources Code is*
2 *amended to read:*

3 25981. (a) As used in this chapter, “solar collector” means a
4 fixed device, structure, or part of a device or structure, ~~which on~~
5 *the roof of a building that* is used primarily to transform solar
6 energy into thermal, chemical, or electrical energy. The solar
7 collector shall be used as part of a system ~~which that~~ makes use
8 of solar energy for any or all of the following purposes: ~~(1) water~~
9 ~~heating, (2) space heating or cooling, and (3) power generation.~~

10 (1) *Water heating.*

11 (2) *Space heating or cooling.*

12 (3) *Power generation.*

13 (b) *For purposes of this chapter, the location of a solar collector*
14 *is required to comply with the local building and setback*
15 *regulations, and to be set back not less than five feet from the*
16 *property line, and not less than 10 feet above the ground. A solar*
17 *collector may be less than 10 feet in height only if, in addition to*
18 *the five-foot setback, the solar collector is set back three times the*
19 *amount lowered.*

20 *SEC. 2. Section 25982 of the Public Resources Code is*
21 *amended to read:*

22 25982. ~~After January 1, 1979, no person owning, or in control~~
23 ~~of a property shall allow a tree or shrub to be placed, or, if placed,~~
24 ~~to grow on such property, subsequent to the installation of a solar~~
25 ~~collector on the, a person owning or in control of another property~~

1 *shall not allow a tree or shrub to be placed or, if placed, to grow*
2 *on that property of another so as to cast a shadow greater than 10*
3 *percent of the collector absorption area upon that solar collector*
4 *surface on the property of another at any one time between the*
5 *hours of 10 a.m. and 2 p.m., local standard time; provided, that*
6 *this section shall not apply to specific trees and shrubs which at*
7 *the time of installation of a solar collector or during the remainder*
8 *of that annual solar cycle cast a shadow upon that solar collector.*
9 *For the purposes of this chapter, the location of a solar collector*
10 *is required to comply with the local building and setback*
11 *regulations, and to be set back not less than five feet from the*
12 *property line, and no less than 10 feet above the ground. A collector*
13 *may be less than 10 feet in height, only if in addition to the five*
14 *feet setback, the collector is set back three times the amount*
15 *lowered, if the owner of the building where the solar collector is*
16 *proposed to be installed has provided written notice to persons*
17 *owning property that may be affected by the requirements of this*
18 *chapter prior to installation of the solar collector. The notice shall*
19 *include all of the following information:*

- 20 *(a) Name and address of the property owner.*
- 21 *(b) Address of the building and location by latitude and*
22 *longitude, and location on the building roof where the solar*
23 *collector will be placed.*
- 24 *(c) Installation date of the solar collector. If the installation*
25 *date is later than the date specified in the notice, the later date*
26 *shall be specified in a subsequent notice to the persons receiving*
27 *the initial notice.*

28 *SEC. 3. Section 25984 of the Public Resources Code is*
29 *amended to read:*

30 *25984. Nothing in this chapter shall does not apply to*
31 *trees planted, grown, or harvested on timberland as defined in*
32 *Section 4526 or on land devoted to the production of commercial*
33 *agricultural crops. Nothing in this chapter shall apply to the*
34 *replacement of a tree or shrub which had been growing prior to*
35 *the installation of a solar collector and which, subsequent to the*
36 *installation of such solar collector, dies. any of the following:*

- 37 *(a) A tree or shrub planted prior to the installation of a solar*
38 *collector.*

1 (b) A tree planted, grown, or harvested on timberland as defined
2 in Section 4526 or on land devoted to the production of commercial
3 agricultural crops.

4 (c) The replacement of a tree or shrub that had been growing
5 prior to the installation of a solar collector and that, subsequent
6 to the installation of the solar collector, dies.

7 (d) A tree or shrub that is subject to a city or county ordinance.

8 SEC. 4. Section 25985 of the Public Resources Code is
9 amended to read:

10 25985. (a) Any city, or for unincorporated areas, any county,
11 may adopt, by majority vote of the governing body, an ordinance
12 exempting their jurisdiction from the provisions of this chapter.
13 The adoption of such an ordinance shall not be subject to the
14 provisions of the California Environmental Quality Act
15 (commencing with Section 21000).

16 (b) Notwithstanding the requirements of this chapter, a city or
17 a county ordinance specifying requirements for tree preservation
18 or solar shade control shall govern within the jurisdiction of the
19 city or county that adopted the ordinance.

20 ~~SECTION 1. Section 25405.6 of the Public Resources Code~~
21 ~~is amended to read:~~

22 ~~25405.6. Not later than July 1, 2007, the commission shall~~
23 ~~initiate a public proceeding to study and make findings whether,~~
24 ~~and under what conditions, solar energy systems should be required~~
25 ~~on new residential and new nonresidential buildings, including the~~
26 ~~establishment of numerical targets. As part of the study, the~~
27 ~~commission may determine that a solar energy system should not~~
28 ~~be required for any building unless the commission determines,~~
29 ~~based upon consideration of all costs associated with the system,~~
30 ~~that the system is cost effective when amortized over the economic~~
31 ~~life of the structure. When determining the cost-effectiveness of~~
32 ~~the solar energy system, the commission shall consider the~~
33 ~~availability of governmental rebates, tax deductions, net metering,~~
34 ~~and other quantifiable factors, if the commission can determine~~
35 ~~the availability of these financial incentives if a solar energy system~~
36 ~~is made mandatory and not elective. The commission shall~~
37 ~~periodically update the study and incorporate any revision that the~~
38 ~~commission determines is necessary, including revisions that reflect~~
39 ~~changes in the financial incentives originally considered by the~~
40 ~~commission when determining the cost-effectiveness of the solar~~

1 ~~energy system. For purposes of this section, “solar energy system”~~
2 ~~means a photovoltaic solar collector or other photovoltaic solar~~
3 ~~energy device that has a primary purpose of providing for the~~
4 ~~collection and distribution of solar energy for the generation of~~
5 ~~electricity. This section is intended to be for study purposes only~~
6 ~~and does not authorize the commission to develop and adopt any~~
7 ~~requirement for solar energy systems on either residential or~~
8 ~~nonresidential buildings.~~

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